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8 NOT FOR CITATION

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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12 IVAN VERNORD CLEVELAND,) No. C 06-02861 JF (PR)
13 Plaintiff,) ORDER OF DISMISSAL
14 vs.)
15 DR. SUNDARAN,)
16 Defendant.)
17 _____)

18 Plaintiff, a California prisoner incarcerated at the California Training Facility
19 in Soledad, (“CTF-Soledad”) and proceeding pro se, filed the instant civil rights
20 action pursuant to 42 U.S.C. § 1983 against prison officials. The Court found
21 cognizable Plaintiff’s Eighth Amendment claim against Defendant Dr. Sundaran
22 based on his deliberate indifference to Plaintiff’s serious medical needs, *i.e.*, his back
23 problems, and dismissed the other claims. On August 21, 2008, the Court directed the
24 clerk to prepare the summons for service of the complaint upon Defendant Sundaran,
25 and the United States Marshal to effectuate such service. The Clerk prepared the
26 summons for service of Dr. Sundaran at CTF-Soledad, where Plaintiff indicated he
27 was located. On September 24, 2008, the Marshal returned the summons unexecuted,
28 noting that “No record of Dr. Sundaran. Facility will not accept service.” (See

1 Docket No. 8.) Accordingly, Defendant had not been served.

2 On October 27, 2008, the Court ordered Plaintiff to provide information to
3 locate and serve Defendant Sundaran. Plaintiff was ordered to provide the Court with
4 the necessary information no later than thirty days from the date of the order, *i.e.*, no
5 later than November 26, 2008. Plaintiff was advised that failure to do so may result in
6 the dismissal of the complaint against Defendant under Rule 4(m) of the Federal Rules
7 of Civil Procedure. The deadline has since passed and Plaintiff has failed to comply.

8 Accordingly, the action is DISMISSED without prejudice as to Defendant
9 Sundaran pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

10 IT IS SO ORDERED.

11 DATED: 1/16/09



JEREMY FOGEL
United States District Judge